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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,796	12/20/2000	Robert H. Montgomery JR.	K-1744	8446

7590

04/30/2003

John J. Prizzi
Kennametal Inc.
P.O. Box 231
Latrobe, PA 15650

EXAMINER

KRECK, JOHN J

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 04/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/742,796

Applicant(s)

MONTGOMERY, ROBERT H.

Examiner

John Kreck

Art Unit

3673

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 21 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 9 and 17.Claim(s) rejected: 1-3, 5-8, 10, 11, 13, 15, 16, 18-28.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 3. Applicant's reply has overcome the following rejection(s): applicant's amendment has overcome the rejection to claims 19-22 under 35 USC 112. .

Continuation of 5. does NOT place the application in condition for allowance because: applicant's arguments have been fully considered, but are not persuasive. Applicant has argued that the restriction requirement is improper because the combination does require the particulars of the subcombination. It is again noted that the combination (e.g. claim 1) does not require an angled retainer; and that the subcombination (e.g. as called for in claim 29) is useable in a block without a taper. With regards to the rejections under 35 USC 103; applicant's arguments are not persuasive. Applicant has argued that it is not the tapered portion of the LeBegue tool which reduces stress, but the complimentary bearing surfaces, which (according to applicant) is already present in the Ritchey tool. It is noted that LeBegue teaches that "the complimentary bearing surfaces are generally formed by a tapered body portion" (col. 2, line 42), this clearly provides a teaching that tapered portions reduce stress. It is further noted that Ritchey fails to disclose such a tapered portion, and applicant's assertion that one would not be motivated to make the proposed modification because the Ritchey tool already includes a complimentary cylindrical portion is not at all persuasive. Applicant has not provided any evidence that complimentary cylindrical portions reduce stress. Thus one of ordinary skill in the art would have been motivated to make the proposed modification, in order to reduce stress, as taught by LeBegue. .

Continuation of 10. Other: Applicant's proposed amendment has not been entered because it does not place the application in condition for allowance, but it will be entered upon appeal. .



HEATHER SHACKELFORD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600